

APPEAL NO. 020117
FILED FEBRUARY 20, 2002

Following a contested case hearing (CCH) held on December 20, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the two disputed issues by finding that the presumptive weight afforded the report of the designated doctor is not overcome by the great weight of the other medical evidence and that, based on that report, the appellant (claimant) reached maximum medical improvement (MMI) on August 25, 1998, with an impairment rating (IR) of 0%. The claimant has filed an appeal and asserts that the determinations of the designated doctor are contrary to the great weight of the other medical evidence, that her MMI date should be the statutory date (not stipulated), and that her IR should be the 18% assigned by her treating doctor. The file does not contain a response from the respondent (self-insured).

DECISION

Affirmed.

The parties submitted their respective cases on documentary evidence and argument. The carrier's documents include an accident report reflecting that on _____, the claimant, while working as a substitute teacher in a sixth grade classroom, was kicked on the right shin by an unruly student; that she complained of a contusion on her shin but worked the next day; and that she sought medical treatment the following day. The July 15, 1998, report of the doctor who examined the claimant for the self-insured states concludes that the claimant reached MMI on July 20, 1998, with an IR of 0%. According to the designated doctor's report of August 25, 1998, the claimant stated that when she was kicked on the shin, her right leg spread out and she twisted to the left and caught herself on a desk to avoid falling; and that her right buttock, right hip, right groin, and low back were injured. The designated doctor states that all of the claimant's lumbar spine and hip range of motion measurements were invalid; that she manifested various Waddells' signs; and that she had reached MMI on August 25, 1998, with a 0% IR. The claimant introduced evidence that following a CCH held on February 9, 2001, another hearing officer determined that her compensable injury included the lumbar spine. The claimant's medical records reflect that after being referred by her former treating doctor to a neurosurgeon who felt she could benefit from lumbar spine surgery, she opted for more conservative treatment and was referred for chiropractic treatment. Her chiropractor's Report of Medical Evaluation (TWCC-69), dated April 26, 2001, certifies that the claimant reached MMI on that date with an IR of 18%. The evidence does not contain a narrative report accompanying that TWCC-69.

Sections 408.122(c) and 408.125(c) provide that the report of the designated doctor has presumptive weight and that the Texas Workers' Compensation Commission shall based its determinations of the date of MMI and the IR on such report unless it is contrary to the great weight of the other medical evidence. The hearing officer found that the

designated doctor's report is not contrary to the great weight of the other medical evidence and, accordingly, based her MMI date and IR determinations on that report. The hearing officer is the sole judge of the weight and credibility to be given the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We are satisfied that the challenged findings of the hearing officer are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is (a self-insured) and the name and address of its registered agent for service of process is

**RB
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge